REMARKS

This Amendment is in response to the Office Action mailed April 12, 2007.

Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Claim Objections

3.   The Examiner objects to claim 39 because the Examiner finds it unclear whether the

claim is intended to invoke 35 U.S.C. § 112, 6th paragraph.

The applicant does not intend to invoke 35 U.S.C. § 112, 6th paragraph. The claim has

been amended to replace the phrase "module for" with --module to-- as suggested by the

Examiner.

4.   The Examiner objected to claim 41 because the Examiner finds it unclear whether the

claim is intended to invoke 35 U.S.C. § 112, 6th paragraph.

The applicant does not intend to invoke 35 U.S.C. § 112, 6th paragraph. The claim has

been amended to replace the phrase "module further for" with --module further to-- as suggested

by the Examiner.

5.   The Examiner objected to claim 43 because the Examiner finds it unclear whether the

claim is intended to invoke 35 U.S.C. § 112, 6th paragraph.

The applicant does not intend to invoke 35 U.S.C. § 112, 6th paragraph. The claim has

been amended to replace the phrase "module further for" with --module further to-- as suggested

by the Examiner.

Applicant respectfully requests that the Examiner withdraw the objection to claims 39, 41 and 43.

Rejection Under 35 U.S.C. § 101

7.   The Examiner rejected claims 34-43 and 49-53 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Examiner considers the claims to fall into the judicial exception for claims that fall within one of the statutory classes but attempt to seek patent protection of a computer program in the abstract because claims 49-53 demonstrate that the claimed invention may be implemented using computer programs. The Examiner asserts that the claims fail to recite a practical application that produces a useful and tangible result since, when implemented in software, the claims never require that the software be executed by a computer. Therefore, the Examiner concludes that the claims are non-statutory.

11.   In order to make claims 34-38 statutory, applicant has amended the claims to claim a computer implemented method in which a computer performs the method.

In order to make claims 39-43 statutory, applicant has amended the claims to claim a system comprising a memory module and a scheduler module having a computer that performs recited actions.

12.   Regarding claim 49, the Examiner points out that current USPTO practice requires that software be claimed in a manner that requires execution on a computer. Applicant has amended the preamble of claims 49 and 50 to recite "a computer" rather than "a processing system" as suggested by the Examiner.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 34-43 and 49-53 under 35 U.S.C. § 101 as lacking patentable utility.

Allowable Subject Matter

13.   Applicant notes with appreciation the Examiner's allowance of claims 44-48.

Conclusion

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.